



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1992

Ms. Karen Anderson
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102

OR92-318

Dear Ms. Anderson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16016.

The Fort Worth City Manager has received a request for information relating to an arrest made by the Fort Worth Police Department (the "department"). You advise us that some of the requested information will be made available to the requestor. You claim, however, that the remaining information may be withheld from required public disclosure under section 3(a) of the Open Records Act. The requestor seeks, in part:

[a]ny document resulting from the letter of Applicant [the requestor] to Custodian [the department] of August 30, 1991 concerning the refusal of B.A. Castillo, a police officer in the hire of the City of Fort Worth, to give her name to Applicant on August 29, 1991.

...

[a]ny document resulting from the arrest of Applicant by Steven B. Carpenter on January 31, 1989.

You claim that this information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(11) of the Open Records Act.

Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

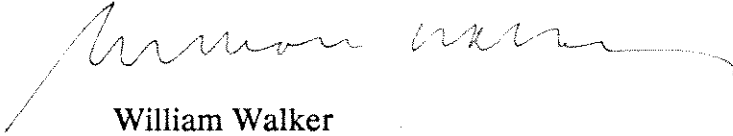
Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990).

You advise us that the requestor is currently involved in litigation with the City of Fort Worth in a case pending before the United States District Court for the Northern District of Texas. We have examined the documents submitted to us for review and conclude that they relate to the pending litigation. Accordingly, unless already released to the requestor through disclosure, court order, or other means, the requested information, except for first page police offense report information, may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. *But see* Open Records Decision No. 597 (1991) (section 3(a)(3) cannot be invoked to withhold from disclosure first page offense report information held to be open in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976)). As we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(1), 3(a)(8), and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with

a published open records decision. If you have questions about this ruling, please refer to OR92-318.

Yours very truly,

A handwritten signature in cursive script, appearing to read 'William Walker', written in dark ink.

William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 16016

cc: Mr. George Vernon Chiles
2800 Jennings
Fort Worth, Texas 76110